defendant's unlawful relation to attain a permanency which the law prefers to protect rather than disturb. The defendant is held from irregular relations with other women than his second wife by the fact that any new offense will revive his first wife's cause of action. *Sewall* v. *Sewall*, 122 Mass. 156. See *Cooke* v. *Cooke*, 3 Swab. & Tr. 126.

ELECTRIC WIRES — APPLICATION OF THE PRINCIPLE OF FLETCHER *v.* RYLANDS. — The plaintiff, a steam railway company, used electric wires to transmit signals, etc. The defendant on a private right of way alongside began to operate an electric railway, necessarily using so strong a current that the plaintiff's signal system was interfered with. The plaintiff sought to enjoin the defendant from operating its railroad without devices to prevent the interference. *Held*, that the injunction will not be granted. *Lake Shore & Michigan Southern Ry. Co.* v. *Chicago, Lake Shore, & South Bend Ry. Co.*, 92 N. E. 989 (Ind.).

The court refused to apply *Fletcher* v. *Rylands* because that case has been discredited in some courts of this country, and because the defendant was a quasi-public corporation legally authorized to make a non-natural use of its land. But undoubtedly the defendant had collected on its land something likely to do mischief, and was allowing it to escape to his neighbor's damage. The real answer to the plaintiff's claim seems to be an affirmative defense of justification. *National Telephone Co.* v. *Baker*, [1893] 2 Ch. 186; *Cincinnati Inclined Plane Ry. Co.* v. *City & Suburban Telegraph Ass'n*, 48 Oh. St. 390; *Hudson River Telephone Co.* v. *Watervliet Turnpike & Ry. Co.*, 135 N. Y. 393. In these cases the defendant escapes because it is using the highway as it is legally authorized to do, and because it is furthering the dominant use of public travel while the telephone companies are making only a subordinate use of the highway. And so in the principal case the defendant, although not making use of a public street, was conducting in a reasonable manner a business essential to the community. The question is not one of responsibility but of justification. See 8 HARV. L. REV. 200, 208.

EVIDENCE — GENERAL PRINCIPLES AND RULES OF EXCLUSION — IRRELEVANCY: VIOLATION OF MUNICIPAL ORDINANCE. — The plaintiff was injured by falling into a hole in the sidewalk in front of a building owned by the defendant. A municipal ordinance required abutting owners to keep the sidewalks in repair. In an action to recover for the injury, the plaintiff introduced the ordinance as evidence of negligence. *Held*, that the evidence was improperly admitted. *English* v. *Kwint*, 44 N. Y. L. J. 847 (N. Y. App. Div., Nov. 1910).

Where the plaintiff is a member of the class for whose benefit the ordinance was passed, nearly all jurisdictions agree that the violation of a municipal ordinance, if it is the proximate cause of injury, is evidence of negligence. *Hamilton* v. *Minneapolis Desk Mfg. Co.*, 80 N. W. 693 (Minn.); *Conrad* v. *Springfield Consolidated Ry. Co.*, 88 N. E. 180 (Ill.). *Contra, Louisville & Nashville R. Co.* v. *Dalton*, 102 Ky. 290. Some courts hold it to be negligence *per se*. See *Pennsylvania Co.* v. *Hensil*, 70 Ind. 569. Others consider it *primâ facie* evidence of negligence. *Chicago & Joliet Elec. Ry. Co.* v. *Freeman*, 125 Ill. App. 318. By the weight of authority it is simply some evidence for the consideration of the jury. *Biesegel* v. *New York Central R. Co.*, 14 Abb. Prac. (N. Y.) 29. Logically it would seem to be material only in cases where reliance on the observance of the ordinance would justify a relaxed standard of care on the plaintiff's part, and knowledge of such reliance would increase the defendant's duty to take care. *Phila. & Reading R. Co.* v. *Ervin*, 89 Pa. St. 71. In the principal case, the ordinance was not designed to protect the members of the public. *City of Hartford* v. *Talcott*, 48 Conn. 525. Its purpose was to secure the performance by property-owners of a duty imposed upon the city. *City of Keokuk* v. *Dis-*